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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 09576359
Filing Date: May 22, 2000
Appellant(s): MOORE, KENNETH B. et al

Adam L.K. Philipp
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 10/18/2007 appealing from the Office action mailed 02/24/2006.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of the claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct. The amendment after final rejection filed on 04/05/06 has been entered.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct. The changes are as follows:

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

5,887,193	Takahashi	03-1999
5603034	Swanson	02-1997

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:
Claims 14-15, 25-26, 28-29, 34-35, and 38 are rejected under 35 U.S.C. 103(a) as being unpatentable over Takahashi et al ("Takahashi", USP 5887193) and Swanson (USP 5603034)

The detailed rejections are as follows:

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

2. Claims 14-15, 25-26, 28-29, 34-35, and 38 are rejected under 35 U.S.C. 103(a) as being unpatentable over Takahashi et al ("Takahashi", USP 5887193) and Swanson (USP 5603034)

Regarding claims 14 and 15, Takahashi teaches an apparatus comprising a storage medium having stored thereon a plurality of programming instructions designed to enable a media player of the apparatus to receive an identifier of a graphical display object (col 20, lines 34-60), retrieve default definition data of a class related to the graphical display object (col 21, lines 8-14), the class default definition data having default values for a first plurality of elements of the graphical display object (see Fig. 30), retrieve custom definition data related to the graphical display object (col 21, lines 14-20), the custom definition data having custom values for a second plurality of elements of the graphical display object, one or more of the first and second elements being the same elements (see Fig. 30), build the graphical display object based (col 21, lines 33-57). Takahashi also teaches a processor communicatively coupled to the storage medium to execute the programming instructions (see Fig. 3). Takahashi does not explicitly teach building the graphical display object based first, on the custom values of the second plurality of elements and then, on the default values of the first plurality of elements that are not included among the second plurality of elements. However, such feature is known in the art as taught by Swanson. Swanson teaches building the graphical display object based first, on the custom values of the second plurality of elements and then, on the default values of the first plurality of elements that

are not included among the second plurality of elements (Swanson teaches a graphical software editor for selectively modifying graphical resources in software applications which provides a main window graphical user interface object for interaction with the graphical resource editor (col 3, lines 49-54). Swanson further teaches generating graphical object from the custom files (col 7, lines 57-61) (col 8, lines 4-7, lines 42-47). Swanson further teaches using default files when custom files are not available (col 10, lines 8-16)). It would have been obvious to one of ordinary skill in the art, having the teaching of Takahashi and Swanson before him at the time the invention was made, to apply Swanson's teaching as addressed above in Takahashi's system with the motivation being to ensure that the custom file is applied first in building graphical object.

Regarding claims 25 and 28, Takahashi teaches the graphical display object relates to a graphical user interface object (Play Button Object, Rec Button Object) (see Fig. 32)

Regarding claims 26 and 29, Takahashi teaches the graphical user interface object includes one or more selected from the group consisting of buttons, windows, menus, and touch sensitive screens (see Fig. 37)

Regarding claims 34-35, Takahashi teaches the media player is an audio player (see Fig. 32)

Regarding claim 38, Takahashi teaches the apparatus is a selected system one from the group consisting of a portable computing device, a portable audio player, a portable video player, a computer workstation, and an interactive television.

(10) Response to Argument

Regarding the Takahashi reference

Appellant argues that “No teaching or suggestion is provided in this reference for creating a graphical display object such as a control panel for this apparatus that is comprised of elements having both default values and custom values”. The Examiner respectfully submits that this argument attacks the Takahashi reference individually since the claims are rejected by the combination of Takahashi and Swanson, and this limitation is taught by Swanson as shown in the rejection of claims 14-15 above.

In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

Appellant argues that the reference teaches away from the claimed recitation. The Examiner respectfully disagrees. Takahashi is directed to creating media objects from “Default” and “Custom” files, Takahashi reference is analogous to the claimed recitation.

Appellant argues that, in Takahashi, “a graphical display object such as a control panel produced using this apparatus could not be comprised of data from both a default file and a custom file”. Again, the Examiner respectfully submits that this argument attacks the Takahashi reference individually since the claims are rejected by the

combination of Takahashi and Swanson, and this limitation is taught by Swanson as shown in the rejection of claims 14-15 above.

Regarding the Swanson reference

Appellant argues that “Swanson does not overcome the limitations of Takahashi et al. with respect to an apparatus that enables a media player to build a graphical display object based first on custom values and then on default values that are not included among the custom values”. The Examiner respectfully disagrees. Swanson teaches that an app-custom file contains customization information (col. 7, lines 18-21) and when an app-custom file does not exist, then graphic resource editor will use the default app-custom is used (col. 10, lines 13-14) (i.e when there is no custom value, default value will be used).

Appellant further argues that “there is no suggestion in this reference that a graphical display object would be built from values included in both a default app-custom file and an application specific app-custom file even if both types of files existed and were accessible along a predetermined search path”. The Examiner respectfully disagrees since Swanson’s editor edits plurality of resources (col. 6, lines 48-66). When an app-custom file for a resource exists, the app-custom file will be used. When an app-custom file for another resource does not exist, the default app-custom file will be used (col. 10, lines 13-14). Therefore, editing plurality of resources will require both app-custom file and the default app-custom file.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

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